

AMENDED IN ASSEMBLY JANUARY 13, 2012

AMENDED IN ASSEMBLY MAY 11, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## ASSEMBLY BILL

**No. 17**

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**Introduced by Assembly Member Davis**

December 6, 2010

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An act to add and repeal Section 22204.5 of the Education Code, ~~and to add and repeal Section 20139 of the Government Code~~, relating to retirement.

### LEGISLATIVE COUNSEL'S DIGEST

AB 17, as amended, Davis. Retirement: pension fund management.

~~The Public Employees' Retirement Law creates the Public Employees' Retirement Fund, which is a trust fund created and administered solely for the benefit of the members and retired members of this system and their survivors and beneficiaries. The Board of Administration of the Public Employees' Retirement System has the exclusive control of the administration and investment of the retirement fund.~~

The Teachers' Retirement Law establishes the State Teachers' Retirement System in order to provide a financially sound plan for the retirement, with adequate retirement allowances, for teachers in public schools of the state, teachers in schools supported by the state, and other persons employed in connection with the schools. The plan and the system are administered by the Teachers' Retirement Board.

This bill would require the ~~Board of Administration of the Public Employees' Retirement System and the Teachers' Retirement Board~~ to submit a report to the Legislature, on or before August 1, ~~2012~~ 2013, and annually each August 1 thereafter, on the ethnicity and gender of

the investment managers with whom ~~they have~~ *it has* contracted in the immediately preceding fiscal year, and who participate in managing ~~their~~ *its* portfolios of external fund management contracts, as specified. The bill would also require ~~these boards~~ *the board* to report to the Legislature, on or before August 1, ~~2012~~ *2013*, and annually each August 1 thereafter, on the ethnicity and gender of the brokerage firms with which ~~they have~~ *it has* contracted in the immediately preceding fiscal year, and that provide brokerage services to ~~their~~ *the* fund's internally and externally managed investment management firms, as specified. The bill would also require ~~these boards~~ *the board* to develop and report to the Legislature, on or before August 1, ~~2012~~ *2013*, and annually each August 1 thereafter, a plan and strategy for participation of emerging investment managers and emerging brokerage firms. The bill would provide for the repeal of these provisions on January 1, 2018. The bill would also make related findings and declarations.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) ~~The California Public Employees' Retirement System, the~~
- 4 ~~nation's largest pension fund, and the California State Teachers'~~
- 5 ~~Retirement System, together, have~~ *has* approximately ~~\$328~~ *\$130*
- 6 billion in assets under ~~their~~ *its* management.
- 7 (b) As the nation's leader in attracting private equity capital and
- 8 advancing innovation, California should also be the leader in
- 9 encouraging equal opportunity in our state pension fund utilization
- 10 of emerging investment managers and emerging brokerage firms.
- 11 SEC. 2. Section 22204.5 is added to the Education Code, to
- 12 read:
- 13 22204.5. (a) (1) Notwithstanding Section 10231.5 of the
- 14 Government Code, on or before August 1, ~~2012~~ *2013*, and annually
- 15 each August 1 thereafter, the board shall report to the Legislature,
- 16 comprehensively and aggregately, on the ethnicity and gender of
- 17 the investment managers with whom it has contracted in the
- 18 immediately preceding fiscal year, and who participate in managing
- 19 its portfolio of external fund management contracts, including all
- 20 asset classes in which the fund has assets allocated. The report

1 shall identify the ownership composition of any privately owned  
2 investment firm, including ethnic and gender breakdowns as well  
3 as the portfolio value amount and asset class managed, in addition  
4 to fees paid to each investment manager. The report shall separately  
5 include a percentage breakdown by ethnicity and gender of  
6 investment officer composition of contracted portfolio management  
7 firms. The board shall report and testify before the Legislature  
8 regarding strategic plans of promoting existing underlying  
9 emerging managers from manager of manager structures to direct  
10 mandates.

11 (2) Notwithstanding Section 10231.5 of the Government Code,  
12 on or before August 1, ~~2012~~ 2013, and annually each August 1  
13 thereafter, the board shall also report, comprehensively and  
14 aggregately, on the ethnicity and gender of the brokerage firms  
15 with which it has contracted in the immediately preceding fiscal  
16 year, and which provide brokerage services to the fund's internally  
17 and externally managed investment management firms in addition  
18 to the commissions paid for trading equity securities and par value  
19 traded for fixed income by product to each brokerage firm utilized  
20 by the fund. Annually, the board shall testify at hearings before  
21 the Legislature to discuss the reports required to be submitted by  
22 this section.

23 (b) Notwithstanding Section 10231.5 of the Government Code,  
24 on or before August 1, ~~2012~~ 2013, and annually each August 1  
25 thereafter, the board shall develop and report to the Legislature a  
26 plan and strategy for participation of emerging investment  
27 managers who manage internally and externally managed assets  
28 in each asset class, and emerging brokerage firms that execute  
29 securities on organized exchanges as selected agents. Any  
30 percentages provided by the board shall be used as a reporting  
31 threshold only, and not as a basis upon which to contract with any  
32 given emerging investment manager or emerging brokerage firm.

33 (c) The board shall define the terms "emerging investment  
34 manager" and "emerging brokerage firm" by regulation for  
35 purposes of this section.

36 (d) Nothing in this section shall require the board to take action  
37 as described in this section unless the board determines, in good  
38 faith, that the action described in this section is consistent with the  
39 fiduciary responsibilities of the board as described in Section 17  
40 of Article XVI of the California Constitution.

1 (e) The reports required to be submitted by this section shall be  
2 submitted in compliance with Section 9795 of the Government  
3 Code.

4 (f) This section shall remain in effect only until January 1, 2018,  
5 and as of that date is repealed, unless a later enacted statute, that  
6 is enacted before January 1, 2018, deletes or extends that date.

7 ~~SEC. 3. Section 20139 is added to the Government Code, to~~  
8 ~~read:~~

9 ~~20139. (a) (1) Notwithstanding Section 10231.5, on or before~~  
10 ~~August 1, 2012, and annually each August 1 thereafter, the board~~  
11 ~~shall report to the Legislature, comprehensively and aggregately,~~  
12 ~~on the ethnicity and gender of the investment managers with whom~~  
13 ~~it has contracted in the immediately preceding fiscal year, and who~~  
14 ~~participate in managing its portfolio of external fund management~~  
15 ~~contracts, including all asset classes in which the fund has assets~~  
16 ~~allocated. The report shall identify the ownership composition of~~  
17 ~~any privately owned investment firm, including ethnic and gender~~  
18 ~~breakdowns as well as the portfolio value amount and asset class~~  
19 ~~managed, in addition to fees paid to each investment manager. The~~  
20 ~~report shall separately include a percentage breakdown by ethnicity~~  
21 ~~and gender of investment officer composition of contracted~~  
22 ~~portfolio management firms. The board shall report and testify~~  
23 ~~before the Legislature regarding strategic plans of promoting~~  
24 ~~existing underlying emerging managers from manager of manager~~  
25 ~~structures to direct mandates.~~

26 ~~(2) Notwithstanding Section 10231.5, on or before August 1,~~  
27 ~~2012, and annually each August 1 thereafter, the board shall also~~  
28 ~~report, comprehensively and aggregately, on the ethnicity and~~  
29 ~~gender of the brokerage firms with which it has contracted in the~~  
30 ~~immediately preceding fiscal year, and which provide brokerage~~  
31 ~~services to the fund's internally and externally managed investment~~  
32 ~~management firms in addition to the commissions paid for trading~~  
33 ~~equity securities and par value traded for fixed income by product~~  
34 ~~to each brokerage firm utilized by the fund. Annually, the board~~  
35 ~~shall testify at hearings before the Legislature to discuss the reports~~  
36 ~~required to be submitted by this section.~~

37 ~~(b) Notwithstanding Section 10231.5, on or before August 1,~~  
38 ~~2012, and annually each August 1 thereafter, the board shall~~  
39 ~~develop and report to the Legislature a plan and strategy for~~  
40 ~~participation of emerging investment managers who manage~~

1 internally and externally managed assets in each asset class, and  
2 emerging brokerage firms that execute securities on organized  
3 exchanges as selected agents. Any percentages provided by the  
4 board shall be used as a reporting threshold only, and not as a basis  
5 upon which to contract with any given emerging investment  
6 manager or emerging brokerage firm.

7 (e) The board shall define the terms “emerging investment  
8 manager” and “emerging brokerage firm” by regulation for  
9 purposes of this section.

10 (d) Nothing in this section shall require the board to take action  
11 as described in this section unless the board determines, in good  
12 faith, that the action described in this section is consistent with the  
13 fiduciary responsibilities of the board as described in Section 17  
14 of Article XVI of the California Constitution.

15 (e) The reports required to be submitted by this section shall be  
16 submitted in compliance with Section 9795.

17 (f) This section shall remain in effect only until January 1, 2018,  
18 and as of that date is repealed, unless a later enacted statute, that  
19 is enacted before January 1, 2018, deletes or extends that date.